THE HONOURABLE SRI JUSTICE GODA RAGHURAM

AND

THE HONOURABLE SRI JUSTICE R.KANTHA RAO

W.P.NO 10503 of 2010

18-06-2010

BETWEEN;

M/s Kirby Building Systems India Limited, Pashamylaram rep. by P.Veera Reddy

...Petitioner

vs.

Assistant Commissioner CT LTU, Charminar Division , Hyderabad and others

...Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

AND

THE HONOURABLE SRI JUSTICE R.KANTHA RAO

W.P.NO. 10503 of 2010

ORAL ORDER: (Per GR,J)

The writ petition is by a company registered under the Companie Act, 1956 engaged in the business of manufacturing Pre-engineered stee building systems and steel guard rails. The petitioner is a deale registered under the Central Sales Tax Act,1957 and A.P. VAT Act, 200 on the rolls of the Commercial Tax Officer, Mehdipatnam Circle Hyderabad and an assessee on the rolls of Assistant Commissioner (CT LTU Charminar Division Hyderabad.

The writ petition assails the *vires* of Rule 14A(4) of the Centra Sales Tax (AP) Rules,1957 since under Section 9(2) of CST Act th provisions of A.P. VAT Act relating to provisional assessment will apply t

an assessment under the CST Act as well. The specified provision of th 1957 Rules is challenged as *ultra vires* the provisions of the CST Act. Th writ petition is filed at the stage of revised show cause notices date 18.03.2010 and 22.02.2010 for the month of January 2010, issued b the 1st respondent proposing assessment on the ground specified therein.

Notice before admission was ordered on 30-04-2010 and as ther was no interim order interdicting further assessment proceedings, it i stated by the learned Special Government Pleader for Commercial Taxe and a factual position assented to by the learned counsel for the petitione that an order of assessment has now been passed for the month c January 2010. In the circumstances, the substantial cause in the wr petition no longer survives.

The writ petition is accordingly dismissed as infructuous. Howeve it is open to the petitioner to pursue appropriate remedies against the orde of assessment now passed. Nothing in this order shall be construed as determination by this court on the issue of the *vires* of the 1957 Rule presented in this writ petition. No order as to costs.

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GODA RAGHURAM,J

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R.KANTHA RAO,J

18TH JUNE 2010.

TSNR